

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL MISC.APPLICATION No 3005 of 1992

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO
1 to 5 NO
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VINAYCHANDRA A SETH

Versus

STATE OF GUJARAT

Appearance:

MR MUKUL SINHA for Petitioners
MR AJ DESAI APP for Respondent No. 1
MR GAURANG H BHATT for Respondent No. 3

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 07/07/2000

C.A.V. JUDGEMENT

This application under Section 482 of the Code of Criminal Procedure is filed with a prayer to quash and

set aside the F.I.R. dated 29.6.1992 and the even dated complaint filed before the learned Chief Judicial Magistrate at Surendranagar. The offences alleged against the applicants are in relation to the document produced before the Civil Court in Civil Suit No.11 of 1992 pending before the Civil Judge (J.D.), Surendranagar.

2. There is a consensus about the fact that the disputes of civil nature among the applicants and the complainant are amicably settled and the civil suit is disposed. It is, therefore, submitted that the original complainant is no more interested in prosecuting the applicants.

3. The learned counsel for the applicants submitted that the complaint being in respect of a document produced in a proceeding in the Civil Court, cognizance thereof cannot be taken except on a complaint in writing of that Court under the provisions of Section 195 of the Cr.P.C. It is further submitted that, even otherwise, the complainant has made out no case in the complaint and none of the offences alleged against the applicants were disclosed in the complaint or the F.I.R. It appears that the complaint against the applicants alleges offences under Sections 193, 196, 197, 198, 468, 471, 476, 406, 420 and 114 of the Indian Penal Code. However, in substance, admittedly, the disputes were of a civil nature among two sisters in respect of inheritance of properties under a will. It is also an admitted position that no application under Section 340 of the Cr.P.C. is made for an inquiry into any of the offences and no complaint is made under that section.

4. The learned counsel for the petitioners has, relying upon the judgment in VINDHYA BASINI PRASAD v. STATE OF U.P. [1982 Cri. L.J. 2177], submitted that when a document was produced or given in evidence in any court, no cognizance of the offence committed in respect of such document can be taken except on the complaint in writing of that Court or its superior Court. Even otherwise, the complaint was arising from a dispute of purely civil nature and after amicable settlement of the civil disputes, no useful purpose can be served by continuing prosecution of the applicants. As the learned counsel for the original complainant concedes the submissions as above, any further proceedings pursuant to the F.I.R. or the complaint would not serve any useful purpose and, therefore, an order to quash the proceedings would meet the ends of justice.

5. Accordingly, without entering into the technical and legal aspects of the submissions made on behalf of the applicants, and in the special facts and circumstances of this case, the F.I.R. dated 29.6.1992 registered as C.R. No.221 of 1992 in the Police Station at Surendranagar and the criminal complaint registered as C.R. No.32 of 1992 in the Court of the learned Chief Judicial Magistrate, Surendranagar are quashed and set aside. The petition stands allowed with no order as to costs.

(KMG Thilake)

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